

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

No. 5:08-CV-169-F

CARTER STAN WHITE, )  
Plaintiff, )  
 )  
v. )                           O R D E R  
 )  
UNITED STATES POSTAL SERVICE, )  
Defendant. )

This matter is before the court on the Clerk of Court's Notice to Counsel of Failure to Make Service within 120 days [DE-5] and the Defendant's Motion to Dismiss [DE-6]. In the notice, Plaintiff and his counsel were specifically warned that pursuant to Rule 4(m), this action would be dismissed without prejudice unless Plaintiff could demonstrate, within 10 days of receipt of the notice, good cause to the court why service was not made during the 120 days following the filing of the Complaint. *See id.* Over a month has passed since the Clerk's issuance of the Notice, and the court has received no response from the Plaintiff.

Accordingly, this action hereby is DISMISSED without prejudice for failure to make timely service upon the Defendant in accordance with Rule 4(m) of the Federal Rules of Civil Procedure. The Defendant's Motion to Dismiss [DE-5] is DENIED as moot. The Clerk of Court is DIRECTED to close this case.

SO ORDERED. This the 11<sup>th</sup> day of February, 2009.

  
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JAMES C. FOX  
Senior United States District Judge